

MESSAGE

FROM THE

PRESIDENT OF THE UNITED STATES,

TRANSMITTING

*A report from the Secretary of War on the claim of Econchatta Nico.*

APRIL 23, 1838.

Referred to the Committee on Indian Affairs, and ordered to be printed.

*To the Senate of the United States :*

I return the petition and papers of Econchatta Nico, referred to me by a resolution of the Senate of February 7, 1837, and transmit a communication and accompanying papers from the acting Secretary of War, showing the failure of the attempt, made in conformity with the resolution, to obtain indemnity for the petitioner, by prosecuting the depredators on his property; and, also, the causes of the failure. The papers are returned, and the report and documents of the acting Secretary of War submitted, in order that Congress may devise such other mode of relief as may seem proper.

M. VAN BUREN.

WASHINGTON, April 18, 1838.

DEPARTMENT OF WAR,  
April 18, 1838.

SIR: I have the honor to return you the petition and papers of Econchatta Nico, a chief of the Appalachicola Indians, for indemnification for losses sustained by depredations on his property by white persons.

These documents were referred to the President by a resolution of the Senate, adopted on the 7th of February, 1837, with a request that he would cause the offenders to be prosecuted, in order to obtain indemnity from them in this way; and the papers were sent by him to this department that this request might be complied with.

The attempt to obtain justice for the petitioner in this way has failed, as will be seen from the accompanying report of the Commissioner of Indian Affairs. This report and the papers connected with it, disclose also the cause of this failure, and, with the petition and other documents, is now

Blair & Rives, printers.

laid before you for transmission to the Senate, if you think proper, in order that Congress may be acquainted with the circumstances, and provide such relief as the case may seem to them expedient.

Very respectfully,

Your most obedient servant,

S. COOPER,

Acting Secretary of War.

To the PRESIDENT of the United States.

*The petition of Econchatta Nico, an Indian chief, residing on the Apalachicola river, in the Territory of Florida, to the honorable the Senate and House of Representatives of the United States in Congress assembled:*

Your petitioner states that he was one of the chiefs who entered into a treaty with the United States in the year 1823, at Camp Moultrie, in Florida, by which the land he now resides on was secured to him, and the said treaty guarantied to him his rights and property, which the United States promised to protect and secure to him.

Your petitioner states that about the 1st of March, 1836, while acting peaceably, and avoiding all offence towards his white brethren, the Indian war, now prevailing in Florida, occasioned to him and his people great uneasiness and alarm. Evil disposed white men who, as appears, were industriously working on the fears and apprehensions of the good citizens of Florida, to cause distrust and suspicion to attach to your petitioner and his innocent people, of bad faith and treachery, pretending your petitioner and his few warriors were ready to join the hostile tribes of Indians now at war with the United States. These unjust and groundless accusations alarming your petitioner's white neighbors, were made by a set of men for the sole purpose of getting your petitioner and his people disarmed, for their own bad and selfish objects, and more particularly that they might, without danger, in his defenceless condition, (for your petitioner did actually surrender his arms to quiet the apprehension of his white neighbors, and did also send some of his active warriors to aid the United States against the lawless Seminoles,) seize upon and take away his slaves, of great value, and the number of twenty, all of whom were likely young negroes but two or three, who are hearty and strong, aged from 40 to 50 years. Your petitioner states that seven of these are likely young men, that would command now \$1,000 each, and that the whole twenty slaves would readily bring at least \$15,000. Your petitioner states that a certain Alexander J. Robinson, and one Colonel Willburn, residing in the State of Georgia, forcibly took and carried away the following slaves: Henry, aged 25 years; Robertson, 24 years of age; Dacie, a man, aged 30; Fanny, aged 30; Betsey, a girl, 12 years old; Butler, a negro boy, 8 years old; Daniel, a boy, 2 years old; also Tom, aged 45; Wanda, aged 40, and infant child; Rubin, aged 30; Nanie, aged 5 years; Hannah, aged 40; Jenney, 21; Tenor, 14; Ballon, a boy, aged 14; Mary Ann, aged 5 years; Moses, aged 28; Toney, aged 26; and woman called Anlaza, aged 45. All the slaves were the property of your petitioner, most of whom were born in his possession, and the elder ones have been in his possession for more than twenty years. Your petitioner states that his

said slaves have been forcibly taken out of this Territory by the said Robinson, Willburn, and others whose names are unknown to your petitioner, and he fears that his slaves have been sold, so that he cannot recover them. Your petitioner further states, that the grand jury of Jackson county, in this Territory, at the present March term of the superior court, have returned several indictments against the said Robinson, Willburn, and others, as true bills for robbery and larceny, but as all the offenders have run off into the States, there is but little hope that they will be arrested and brought to punishment. Your petitioner therefore prays that Congress will indemnify him for the loss of his slaves, and for the injury that he has sustained, and that a sum sufficient to cover his loss may be appropriated by Congress to be paid your petitioner, according to the report which may be made by the honorable judge of the western district of Florida, whom he prays may be authorized to take testimony and ascertain the amount or the value of said slaves; and your petitioner, as in duty bound, will ever pray, &c.

his  
ECONCHATTA x NICO,  
mark.

APRIL 2, 1836.

Witness:

JOHN BIRD,

*Justice of the Peace for Jackson county.*

IN SENATE OF THE UNITED STATES,  
February 2, 1837.

*The Committee on Indian Affairs, to whom were referred the memorial and papers of Econchatta Nico, a Seminole Indian, have had the same under consideration, and beg leave to report:*

That the facts set forth in the memorial represent a very aggravated case of trespass committed by citizens of the United States upon the property of this Indian petitioner. They farther find that the affidavits, reports of officers and agents of the Government, accompanying the petition, render it highly probable that the facts stated in the petition are true; but they are unwilling to recommend that the petitioner should be indemnified out of the Treasury.

By the intercourse law, provision is made that when trespasses are committed by citizens upon the property of Indians, in the country secured to them, suit may be brought, and the individual indemnified by the recovery of double damages; and that if the defendant in such suit is unable to pay a sum equal to the actual damage sustained, that then the United States shall make good the deficiency.

It appears to the committee that the commencement and prosecution of suit to decision, ought to be held a prerequisite to an application to Congress for indemnity.

The committee are aware of the peculiar and helpless condition of the petitioner, and in consideration thereof, recommend for adoption the following resolution:

*Resolved, That the petition and papers of Econchatta Nico be transmitted*

to the President of the United States, and that he be requested to direct the proper law officer, in whatever State or Territory the supposed trespasser or trespassers may be found, to commence and prosecute to judgment such suit or suits as may be necessary to procure for the petitioner full indemnity for the injuries of which he complains.

*The affidavit of William S. Pope, Esq., residing in the county of Jackson, and Territory of Florida, taken before John Bird, Esq., a justice of the peace for the county aforesaid.*

This affiant states, on oath, that he is acquainted with the Indian chief, Econchatta Nico, residing in the county of Jackson, and Territory of Florida, and on the river Chattahoochee. That this affiant at one time acted as sub-agent for the Indian department, and verily believes that said Indian chief, Econchatta Nico, is an honest man, and as orderly a citizen as any in the county. That he is well acquainted with his circumstances and his property, and knew his slaves named in his petition to Congress, with the exception of two or three infants. This affiant says, from his own knowledge, that the slaves named in said petition have for many years been in the possession of said Indian chief, and considered as his property. That the same have been, as he believes, forcibly taken by lawless persons from his possession, and carried without the jurisdiction of this Territory. That he believes the said slaves would readily sell for at least from twelve to fifteen thousand dollars. This affiant further states that the Indians were disarmed under the pretence that they would or might join the hostile tribes now at war in this Territory, and the arms were brought as this affiant understood, and at the house of H. Douglass were deposited; and the arms of the other Indian town below on the river, were deposited in the house of this affiant, who considered it at least unnecessary and illegal, and he re-delivered the arms to the Indians as they called for them; and that it was while the Indians were thus defenceless, the slaves referred to in said petition were forcibly taken, as this affiant believes, from the possession of said chief Econchatta Nico. This affiant states that he believes, from the best information, that eleven of the warriors of the chief aforesaid had actually gone to join our troops against the hostile Indians, not that this affiant saw them actually march off, but he does not doubt the fact, as it is notorious throughout this neighborhood.

In witness hereof, I have hereto subscribed my name, this 2d day of April, 1836.

WM. S. POPE.

I, John Bird, a justice of the peace now in commission in the county of Jackson, and Territory of Florida, do hereby certify, that Wm. S. Pope, Esq., signed and made oath before me to the within affidavit. Witness my hand and seal, this 2d day of April, 1836.

JOHN BIRD, [L. s.]  
Justice of the Peace.



## JACKSON SUPERIOR COURT,

March term, 1836.

UNITED STATES OF AMERICA }  
*District of West Florida.* }

In the case of John Milton against Econchatta Nico, an Indian, contesting the title to a number of negro slaves, referred to the decision of the judge of the western district of Florida, by the Secretary of War, I certify that George Walker, Esq., the attorney of the United States for said district, is entitled to an extra compensation of two hundred dollars.

The case is one involving a very considerable amount of property, and much investigation into the nature and effect of the Indian laws on the subject of descents. In this investigation a considerable body of testimony has been taken, at the expense of much time and labor.

J. A. CAMERON,

*Judge D. W. F.*

In the case of John Milton, a citizen of Georgia, against Econchatta Nico, an Indian, referred to the examination and decision of the judge of the United States for the district of West Florida, by order of the War Department.

The claimant, John Milton, claims several negro slaves, in the possession of Econchatta Nico, under a bill of sale from Harkins, an Arkansas Creek Indian.

Harkins claims under a bill of sale from Cochahago Chop-co, otherwise known and called Wameliko.

Wameliko claimed the slaves in question as his, as being one of the sons of Fulchegee, the original owner of them.

Econchatta Nico's title to the slaves rests upon an Indian law of inheritance.

The bill of sale from Cochago Chop-co, or Wameliko, to Harkins, is dated July 13, 1833, and conveys, by name, five negro men slaves, and five negro female slaves, "and their increase." The consideration is \$3,000. The grantor does not write, but his mark is made, together with a seal, and the deed purports to have been made before two witnesses, one of whom proves its execution before a justice of the peace for Jackson county, on the 2d of September, of the same year.

The bill of sale for the same ten slaves from Harkins to the claimant, Milton, is made about the same time, and for the like consideration money.

Fulchegee, the father of Wameliko, lived and died in Florida, near Mt. Vernon, on the Appalachicola. He was the owner of Sally, Hannah, Tyler, and Tom, negro slaves, from whom the slaves in question descended. He died some time between forty and fifty years ago, leaving four children, of whom Wameliko was the second, and a brother named Will, and a sister named Susy, who also was the mother of Econchatta Nico.

Fulchegee, when about to die, gave his negroes to his brother Will, and desired that when Will died the negroes should belong to Econchatta Nico, the son of Susy, the sister of Fulchegee and Will.

When Will died, the negroes were taken possession of by Econchatta Nico, more than thirty years ago, and he has held them in possession ever since.

From the whole body of the testimony, and there is no variance in it, it appears that prior to the termination of the last war between the United States and Great Britain, the universal law of inheritance among the Creek Indians was, that brothers first inherited, in preference to children and all others, and then the sons of sisters.

After the close of the late war, McIntosh, the Indian chief, procured the Indian law of inheritance altered, and under the new law, children inherited in preference to brothers or nephews. Immediately on the alteration of the law, the alteration was made known to the lower Indians, and was agreed to in council.

Upon the death of Fulchegee, Will took possession of his slaves, under the law of inheritance then in force among the Indians, he being the brother of Fulchegee. Upon the death of Will, his nephew, Econchatta Nico, the son of Susy, who was sister both to Will and Fulchegee, took the negroes into possession, under the existing Indian law of inheritance, and long prior to the alteration of that law.

The reason of the old Indian law of inheritance, by which brothers and sons of sisters inherited in preference to children, seems to have arisen from the belief entertained by the Indians that a brother's or a sister's son would be more likely to have the same blood with the deceased flowing in their veins, than even the children of the wife of the deceased, although those children might be reported to be the children of the deceased.

As, then, the law of inheritance, by which negroes descended to brother's or sister's sons in preference to children, prevailed among the Indians at the time of the death of Fulchegee; as the same law of inheritance prevailed at the time of the death of Will, and as the same law prevailed when the slaves came into the possession of Econchatta Nico, and for several years thereafter, I am of opinion that some of the children of Fulchegee were entitled to his slaves, but that they lawfully descended first to his brother Will, and afterwards to his nephew Econchatta Nico, and that Wameliko had no right, power, or authority to sell them to Harkins.

Even if the Indian law of inheritance had been altered before the death of Fulchegee, when it was not altered until many years after his death, say thirty years, still, as he left four children, there was no authority in *one* of them, Wameliko, to sell and dispose of his slaves without the concurrence of his brothers and sisters.

But the bill of sale from Wameliko to Harkins is made more than forty years after the death of Fulchegee, the ancestor, and made more than thirty years after the slaves had been in the quiet and undisputed possession of Econchatta Nico, under the acknowledged Indian law of descent.

Besides, in a certificate which Wameliko himself made, on the 8th of October, 1833, before a justice of the peace and two other witnesses, he says that any title he should have made to Benjamin Harkins or any other person, is of no account, as he, Wameliko, had no right to sell the negroes in dispute; that he never had any right to the negroes; that the title had been Econchatta Nico's for something like thirty years; that if he had supposed that they were his property, he should have taken them long before this time. He further says that he has never received any value from Benjamin Harkins, or from any other person, for these slaves.

I am of opinion, therefore, that John Milton, the claimant, has no shadow

of title to the negro slaves in question, but that they all rightfully belong to Econchatta Nico.

J. A. CAMERON,  
Judge D. W. F.

PENSACOLA, W. F., April 12, 1836.

---

SUPERIOR COURT FOR THE COUNTY OF JACKSON,  
March term, 1836.

UNITED STATES OF AMERICA, }  
Dis rict of West Florida. }

The grand jurors of the United States summoned and sworn in and for the district of West Florida, at a superior court holden for the county of Jackson, in said district, on the third Monday in the month of March, in the year of our Lord one thousand eight hundred and thirty-six, upon their oath present, that Alexander Robison, late of the district and county afore-said, (yeoman,) Hezekiah Douglass, late of the same, (yeoman,) Carlton Wellborn, late of the same, (yeoman,) Ellis Wood, late of the same, (yeoman,) William H. Pike, late of the same, (yeoman,) Hardy Powell, late of the same, (yeoman,) John Deese, late of the same, (yeoman,) William Chambers, late of the same, (yeoman,) and William Durham, late of the same, (yeoman,) on the tenth day of March, in the year of our Lord one thousand eight hundred and thirty-six, with force and arms in and upon one Econchatta Nico, an Indian chief of a band or tribe of the Seminole nation, in the peace of God and the United States, then and there being, feloniously did make an assault, and him, the said Econchatta Nico, in bodily fear and danger of his life, and there feloniously did put, and one Wonda, a negro woman and slave, of the value of five hundred dollars lawful money of the United States; one infant child of said Wonda, of the value of fifty dollars; one Rubin, a negro man and slave, of the value of eight hundred dollars; one Nannie, a negro woman and slave, of the value of four hundred dollars; one Hannah, a negro woman and slave, of the value of five hundred dollars; one Jenny, a negro woman and slave, of the value of four hundred dollars; one Tenar, a negro woman and slave, of the value of three hundred dollars; one Mary Ann, a negro woman and slave, of the value of four hundred dollars; one Moses, a negro man and slave, of the value of eight hundred dollars; one Alara, a negro woman and slave, of the value of five hundred dollars; one Robison, a negro man and slave, of the value of five hundred dollars; one negro woman, of the name of Fanny, a slave, of the value of five hundred dollars; one Betsey, a negro woman and slave, of the value of four hundred dollars; one Butler, a negro boy and slave, of the value of three hundred dollars; and one Daniel, a negro boy and slave, of the value of two hundred dollars; of the property, goods, and chattels, of the said Econchatta Nico, from the person and possession, and against the will of the said Econchatta Nico, and from the town, settlement, and reservation, secured to the said Econchatta Nico and his tribe or band, by the treaty done at camp, on Moultrie creek, in the Territory of Florida, between the United States and the Florida tribes of Indians, concluded on the eighteenth day of September, one thousand eight hundred and twenty-three, and then and there, feloniously and violently, did steal, take, and carry

away, against the form the statute of the United States in such case made and provided, and against the peace and dignity of the United States.

GEO. WALKER,  
*United States Attorney.*

(Endorsed,) A true bill.

W. S. MOORING, *Foreman.*

Filed 31st March, 1836.

Test: SEARS BRYAN, *Clerk.*

A true copy, test:

SEARS BRYAN. *Clerk.*

---

PENSACOLA, W. F., *April 12, 1836.*

SIR: In November, 1833, James D. Wescott, Esq., then acting Governor of this Territory, communicated to me a letter from the Department of War, directing that a dispute which had arisen between a Mr. John Milton and Econchatta Nico, the chief of one of the Indian towns on the Appalachicola river, respecting some negro slaves, then in the possession of that chief, should be referred to me for my examination and decision.

Early in December of the same year, I issued commissions for the purpose of taking testimony to a commissioner residing at Fort Mitchell, to another residing at Camp King, to another residing at Tampa Bay, and to another residing near the Indian town, on the Appalachicola. Since that time I have issued several other commissions at the instance of Milton, for obtaining more testimony, and am now in possession of a mass of evidence on the matters in controversy.

Milton had commenced a civil action against Econchatta Nico, by the law of attachment, in the superior court of Jackson county, in the district of West Florida, prior to the reference of the disputed matters to me by order of the War Department. I would not suffer him to proceed in that suit, until I had examined the case. At the last term of Jackson superior court, he came into court by his attorney, and dismissed his attachment, and announced his intention to withdraw from any controversy with the Indians about the slaves.

The truth is, as I understand, that Milton has sold his claim to the slaves to other persons, who have tortiously obtained possession of them, and removed them beyond the limits of this Territory. Upon this point, I have directed Mr. Walker, the district attorney, to give you all the information he possesses, and to send you copies of such papers as will elucidate the matter.

Herewith, you will receive the opinion which I have formed, upon a view of all the evidence I was able to obtain, in the case referred to me. If it be desirable, I can transmit to the department the evidence upon which my opinion is founded.

Having had this case under me for more than two years, and it being one involving much labor, not appertaining to my regular official duties, I expect that Government will pay me for my service a sum right and proper. The case was before me under the reference of the Secretary of War for two years and a half. I do not know what Government has been in the



habit of allowing for such services, but I am willing to receive what has been hitherto given in like cases.

I have the honor to be, most respectfully,

Your very obedient servant,

J. A. CAMERON, *Judge D. W. Florida.*

Hon. L. CASS,

*Secretary of War.*

SUPERIOR COURT FOR THE COUNTY OF JACKSON,  
*March term, 1836.*

UNITED STATES OF AMERICA, } *to wit:*  
*District of West Florida,*

The grand jurors of the United States, summoned and sworn in and for the district of West Florida, at a superior court holden for the county of Jackson, in said district, on the third Monday in the month of March, in the year of our Lord 1836, upon their oath present: That Alexander Robison, late of the district and county aforesaid, yeoman; Hezekiah Douglass, late of the same, yeoman; Carlton Wellborn, late of the same, yeoman; Ellis Wood, late of the same, yeoman; William H. Pike, late of the same, yeoman; Hardy Powell, late of the same, yeoman; John Deese, late of the same, yeoman; William Chambers, late of the same, yeoman; and William Durham, late of the same, yeoman, on the 10th day of March, in the year of our Lord 1836, in the district and county aforesaid, one woman of the name of Wonda, a negro and slave, of the value of \$500, lawful money of the United States; one infant child of said Wonda, of the value of \$50; one Rubin, a negro man and slave, of the value of \$800; one Nannie, a negro woman and slave, of the value of \$400; one Hannah, a negro woman and slave, of the value of \$500; one Jinny, a negro woman and slave, of the value of \$400; one Tenar, a negro woman and slave, of the value of \$300; one Mary Ann, a negro woman and slave, of the value of \$400; one Moses, a negro man and slave, of the value of \$300 dollars; one Alara, a negro woman and slave, of the value of \$500; one Robison, a negro man and slave, of the value of \$500; one negro woman of the name of Fanny, a slave, of the value of \$500; one Betsey, a negro woman and slave, of the value of \$400; one Butler, a negro boy and slave, of the value of \$300; and one Daniel, a negro boy, of the value of \$200, of the property, goods, and chattels of one Econchatta Nico, an Indian, chief of a tribe or band of Florida Indians, then and there being found, feloniously, from the town, settlement, and reservation, secured to the said Econchatta Nico and his band or tribe, by the treaty done at Camp, on Moultrie creek, in the Territory of Florida, between the United States and the Florida tribes of Indians, concluded on the 18th day of September, 1823, did steal, take, and carry away, against the form of the statutes of the United States, in such case made made and provided, and against the peace and dignity of the United States of America.

GEORGE WALKER, *United States Attorney.*

(Endorsed.) A true bill.

W. S. MOORING, *Foreman.*

Filed 31st March, 1836.

SEARS BRYAN, *Clerk.*

A true copy. Test: SEARS BRYAN, *Clerk.*

TALLAHASSEE, *May 23, 1836*

SIR : I herewith transmit you a petition of the Indian chief, Econchatta Nico, to be laid before Congress, should you consider that necessary.

Taking forcibly the slaves of this chief, after those men had created an alarm among the white inhabitants, which resulted in disarming the Indians, was an outrage well calculated to rouse them to hostility. This alarm was concerted by those violations of all law, solely with the view of obtaining, without the danger of resistance, the slaves of the chief. I believe it is admitted by the inhabitants of Florida who know this chief, that an Indian of more honesty and generous feeling towards our citizens, is not to be met with in any tribe in the United States.

While I acted as the Governor of Florida, the claim, under the shadow of which Robinson and Wilbourne and others have taken the slaves, was submitted to my investigation, and, after a full examination, I was satisfied the slaves justly belonged to the chief, and of course the claim of the applicants was rejected.

I then informed the claimants they could bring their suit for the slaves, and if the court should decide they were entitled to recover them, they should be delivered up. Some suit or process was instituted by the claimants in the superior court of Jackson county, before the honorable Judge Cameron, when, finding from the evidence taken in the cause they must be defeated, the plan was resorted to of alarming our citizens, who, for their own safety, as hostilities then existed with the Seminoles, disarmed the Indians to accomplish the capture of the slaves. I have been informed, and believe the report is correct, that Robinson and Wilbourne and others concerned in this outrage, have speculated largely in the purchase of Indian reservations in the State of Alabama, and I entertain but little doubt that great frauds have been practised on the Indians in their purchases. It might be proper for the department to have a full examination made of their conduct and purchases, before they receive confirmation.

I have no expectation the slaves referred to in the petition will ever be obtained, as I take it for granted that they have been carried to a great distance and sold. The chief is an old man, and now destitute of assistance to cultivate his land, and must, with his family, suffer want, if some adequate remuneration for his loss is not speedily made to him. Col. Richard C. Allen and myself have undertaken, at the solicitation of Econchatta Nico, to place his case before your department, with the expectation that you will either have it acted on by the department, or, if you deem it proper, to submit the subject to the action of Congress. Please to acknowledge the receipt of the petition, and apprise us of the direction and disposition you may make of it. Your answer may be directed to Duval & Allen, Tallahassee.

Respectfully, your obedient servant,

WM. P. DUVAL.

Hon. LEWIS CASS,  
*Secretary of War.*

PENSACOLA, *April 21, 1836.*

SIR : I deem it my duty to inform you of a recent occurrence within this district, between a number of white men and the Indians residing on the Appalachicola river, and of the steps I have taken in relation to it.

Some two or three years since, an effort was made by a certain John Milton and others, by a civil process from a court of this Territory, to possess themselves of a number of negroes, claimed and in the possession of Econchatta Nico, an Indian chief, residing within the town or reservation secured to him and his band, by the treaty known as the treaty of Camp Moultrie. The acting Indian agent thought it his duty to take means to protect the Indians, and applied to the Governor of the Territory for his aid and authority to effect that object.

The Governor opened a correspondence with the Secretary of War on the subject, which resulted in instructions from the Secretary that a judicial proceeding should be instituted before the judge of this district. That proceeding was accordingly instituted, and how it resulted, as well as that previously instituted by the persons claiming adversely to the Indians, you will, I presume, soon be apprized of by the Hon. John A. Cameron. I will but say, in relation to it, that the claimants, by a declaration in court, abandoned the investigation.

Some short time since, the Indians, by robbery and larceny, on the part of the persons alluded to, were divested of the whole of the negroes; and the steps I deemed it my duty to take, will be indicated to you by the enclosed documents. About the same time, and by the same persons, an Indian chief, called Walker, or Walk-up-chasu, residing on a reservation on the same river, was robbed of all the negroes he had, some six in number.

The whole of the persons named in the indictments reside out of this Territory, in the States of Georgia and Alabama, and I have reason to believe their arrest can never be effected in the Territory.

With other documents I enclose you Judge Cameron's certificate in relation to my compensation, which, if approved by you, please transfer to the proper officer.

I have the honor to be,

Respectfully,

GEO. WALKER,

*United States Attorney.*

Hon. LEWIS CASS.

WAR DEPARTMENT,

*Office Indian Affairs, Jan. 14, 1837.*

SIR: In compliance with your verbal request, I have the honor to transmit, herewith, copies of papers relating to the abduction of certain negroes, the property of Econchatta Nico, a Florida chief. In addition to those asked for by you, I have furnished a copy of a letter from George Walker, Esq., district attorney of the western district of Florida, having a bearing on the subject.

Very respectfully,

Your most obedient servant,

C. A. HARRIS,

*Commissioner.*

WILLIAM P. DUVAL, Esq.,

*Washington.*

WAR DEPARTMENT,  
Office Indian Affairs, April 16, 1838.

SIR: By a resolution of the Senate of February 7, 1837, the petition and papers of Econchatta Nico, a chief of the Appalachicola Indians, were referred to the President, with a request that he would direct a suit to be commenced and prosecuted to judgment, to procure indemnity for the negroes alleged to have been stolen from the petitioner. I have now the honor to submit a copy of a report from the United States district attorney in Florida, showing the proceedings that have taken place. As that officer has arrived at the conclusion that no jury would give a verdict in favor of the chief, but that the merits of his claim ought not to be affected by that circumstance, it would seem to remain for Congress, in its wisdom, to determine what measure of redress shall be extended to him, in lieu of that provided for in the 16th section of the intercourse act of 1834, from a resort to which, with any prospect of a favorable result, he is debarred.

Copies of all the papers are herewith submitted.

Very respectfully,

Your most obedient servant,

C. A. HARRIS,

Commissioner.

Capt. S. COOPER,

Acting Secretary of War.

---

*Extract of a letter from Archibald Smith, jr., to the Commissioner of Indian Affairs, dated February 19, 1837.*

"I now take up my pen to write you a few hurried lines, at the request of the Indian chiefs, Econchatta Nico and John Walker, in behalf of their sub-chiefs, &c. It appears that those unfortunate people, in consequence of a few designing, malicious, and ill disposed white men, are constantly kept in fear. The March term of the superior court for West Florida is now near at hand, and divers efforts are now making to frighten and run them off. As this same band succeeded in accomplishing, last spring, in stealing twenty negroes from the old chief Econchatta Nico, at the same time telling him if he did not fly for safety they should exterminate him and his town, the consequence was both towns became alarmed and took to flight. By the vigilance of myself and a few more neighbors, Walker and his Indians returned to their town in a few weeks, but it being the spring season, they planted little or nothing in consequence of their fright. Econchatta Nico and his people lay out in the woods until lately, about sixty miles south of here, and near the gulf."

---

*Extract of a letter from Archibald Smith, jr., to the Commissioner of Indian Affairs, dated Gadsden county, Florida, May 14, 1837.*

"It appears that, by some means, a certain David G. Raney, a merchant at Aspalaga, obtained a deed from John Walker and his sub-chiefs for a section of land, being the most valuable part of said Walker's reserve, the



said land being conveyed to a Mr. Coe, a wealthy planter, who has taken possession of and planted divers improvements belonging to said town of Indians. This sale was effected about two years since. The chief, John Walker, states to me that his father's negro Jim, who had been for many years interpreter for said town, came home one day from Raney's store, and told him that he was anxious to purchase his own freedom, provided he, John Walker, would take \$330. Walker then told Jim he was willing, provided Jim would still live in the town and be interpreter as usual. Jim consented to do so, and then observed on such a day, (naming the day,) Mr. Raney would have the papers ready for their signatures. Walker states, 'on the day appointed we did go to the store. Mr. Raney gave us many presents of dry goods, and as much spirits as we could all drink. We all got very much intoxicated, and we put our hands to the paper and made our marks, supposing it to be Jim's free papers, &c., &c.; but selling land was never mentioned to us.' I remember, myself, of a great stir, and the Indians hunting the old negro Jim, in order to take his life for false interpretation, but he made his escape to St. Marks, got on board a vessel bound for Cuba, and Walker now prays your department will cause measures to be immediately taken to put him in possession of the said section of land, and to keep off all intruders; likewise for the recovery of a certain half-breed woman, named Sarah, and her two children, Daniel and Poldo. Sarah is the daughter of Sam Factor, a respectable old Indian, by his servant and wife Rose, a black woman. Rose, her daughter Sarah, and her two children, it appears, were taken away some two years since, by the same band of villains who carried away Econchatta Nico's negroes; that Sarah and her children were sold to a man in Stewart county, Georgia; that Rose was sold at different times, at last, in the Creek nation near Columbus; some of the friendly chiefs recognising her, she was brought to Fort Mitchell, and thence to her own town, by Jesup's army, last September."

---

*Extract of a letter from Archibald Smith, jr., to the Commissioner of Indian Affairs, dated Quincy, Florida, April 22, 1837.*

"There is a certain class or band of white men, who have played a deep game in the Creek nation, by stealing lands and negroes. They have taken away some twenty or upwards of the old chief Econchatta Nico's slaves, in March, 1836. Previous to that, they took away an old negro woman, who is wife to a very respectable old Indian by the name of Sam Factor. The old woman was sold divers times in and about Columbus, Georgia; that her daughter, half Indian and negro, with her two children, was sold in Stewart county, Georgia; that some white men in Columbus recognised her, and made the fact known to General Jesup, who had her taken and brought home in September last. The said Indian, Sam Factor, together with the chiefs, headmen, and warriors, do now humbly request that your department will cause measures to be immediately taken to reclaim and restore to them the said woman, Sarah, and her two children, Daniel and Poldo. They are very much aggrivated by such conduct."

*Extract of a letter from the Commissioner of Indian Affairs to Archibald Smith, jr., dated April 29, 1837.*

"You were authorized, on the 25th July last, to take measures for the recovery of the slaves said to have been unjustly taken from Econchatta Nico, and which you allude to again. No report has been received from you of the circumstances of this case, or of the measures adopted for the recovery of the property. You will please to give to this office a full and minute account of all the circumstances of this case, that the Government may be enabled to decide whether its duty to these Indians requires any further measures to recover this property.

"In order to sustain a claim upon the United States, for indemnity for this spoliation, all the proceedings contemplated by the 16th section of the act of June 30th, 1834, to regulate trade and intercourse with the Indian tribes, must previously be had. These proceedings, among others, are, that the offenders must be convicted before a court of competent jurisdiction, and prove unable to pay the full amount of the adjudicated value, or it must appear that the offender cannot be apprehended and brought to trial. After all due diligence has been used to obtain justice from the aggressors, the Government will receive the claim of the injured party; and if it shall appear to be within the intent and meaning of the 16th section of the act above mentioned, it is bound to remunerate the sufferer. You will please to give this office all the information in your possession relative to the case of Econchatta Nico."

---

*Extract of a letter from the Commissioner of Indian Affairs to George Walker, Esq., district attorney of the United States for the district of Florida, dated August 2, 1837.*

"I have the honor to request that you will, as the agent of this office, perform a special duty in connexion with the Appalachicola Indians.

"Enclosed, I transmit copies and extracts of various letters and papers, from which it will appear that several outrages have lately been perpetrated on these Indians by white people. The information in possession of the office is not, however, sufficiently full and explicit to enable it to judge of the proper method of interfering, or of endeavoring to procure redress for them, or of the propriety and legality of taking any measure at all on the subject.

"I have to request that you will proceed to the residence of these Indians and make a complete investigation of their complaints, and report all the facts and circumstances you can elicit, and your opinion as to what, if anything, should be done in the premises. It is obviously impracticable to say to what points your inquiries shall be directed, or in what manner you shall conduct them. All this is left totally to yourself, with the single remark, that it is desirable that the information you communicate shall be as full and as certain as it is possible to procure."

*Extract from the report of George Walker, Esq., to the Commissioner of Indian Affairs, dated*

MANANNA, March 12, 1838.

SIR: I beg leave respectfully to report the result of my inquiries into the complaints of the Appalachicola band of Indians, for depredations committed on their property by the whites, and into their disposition to emigrate to the west, in conformity with the treaty made at Popes. Econchatta Nico, a principal chief of one of their towns, complains of Alexander Robinson, Hezekiah Douglass, and several other persons, some time in the year 1836, by illegal and violent means deprived him of nineteen valuable negroes, which he had inherited from his ancestors. I will suggest that these are the same negroes claimed by a certain John Milton a few years ago, and that, under a purchase from Milton, said Robinson and others pretended to have title to them. The merits of the title of Milton having been investigated, before the judge of the district of West Florida, in conformity with the instructions from the Secretary of War, the result of that investigation would of course be deemed conclusive as to the right of property in the negroes as between the Indians and Robinson. The opinion of the judge, which was based upon testimony taken both on the part of the Indians and Milton, and which opinion was reported to the Secretary of War, was that Milton had no title to the negroes. Regarding therefore these negroes as rightfully the property of Econchatta Nico, it is only necessary to detail the circumstances attending the prosecution of Robinson and others for depriving Econchatta Nico of them to show how little probability there was of convicting these persons, even upon the clearest and most positive proof. I would suggest at the time the court sat at which the trial was to take place, the fugitive Creek Indians, even in the immediate vicinity of the court house, had already committed acts of hostility upon the whites, and the whole country was in the utmost state of excitement and alarm. No jury, it was presumable, selected from such a community, at such a time, would convict a white man for any offence against Indians; but originally three witnesses only could be found to testify before the grand jury, all of whom but one, Mr. Pope, former agent for these Indians, were implicated in the outrage, being persons who were hired to aid in carrying off the negroes. At the term of the court succeeding that at which the indictments had been found, three of the principal persons indicted appeared and demanded a trial. Pope, the only witness that could be relied on, being dead, and one of the other witnesses not appearing, and understanding that he had said he never would testify in the case, I thought it advisable, under the circumstances, to abandon the prosecution, being decidedly of opinion, therefore, that conviction of these persons, under the circumstances, was wholly impracticable. It is scarcely necessary for me to express the opinion, that the abandonment of the prosecutions should not be regarded as prejudicial to the rights of the Indians. The negroes were estimated to be worth fifteen thousand dollars, by several persons who were consulted by me on the subject. Beside the above complaint, Econchatta Nico and the Indians of his town alleged many others, but finding them to be only such as grew out of contracts with the whites, I paid no attention to them, as I conceived they were not of the character embraced by your directions.

